

## REMARKS

In the July 1, 2003 Office Action, claim 1 is objected to for reciting allegedly confusing language, claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,156,454 to White, and claims 1-20 are rejected under 35 U.S.C. 103 as being unpatentable over presumably a Hubbell Power Systems bulletin (bulletin 2-9705) in view of White.

By the present amendment, claim 1 is amended to eliminate the indicated confusing language, claims 9, 16 and 19 are amended to correct obvious typographical errors and new dependent claim 21 is added. This leaves claims 1-21 pending in the application, with claims 1, 10, 16 and 19 being independent.

The prior art rejections of claims 1-20 are respectfully traversed. White fails to teach a light fixture foundation including cableway openings having axes that are laterally spaced and non-coaxial with respect to one another, as recited in the claimed invention. White also fails to teach a method of installing a light fixture foundation including the step of inserting first and second cableways into laterally offset openings of the foundation so that the cableways do not interfere with one another, as recited in the claimed invention.

### Claim Objections

Claim 1 is objected to for reciting the allegedly confusing phrase of "for receiving first and second cableways." Although Applicant disagrees that this language is confusing, to expedite prosecution of the application, claim 1 is amended to delete this phrase, thereby obviating the rejection. Therefore, the objection to claim 1 should be withdrawn.

### Claim Rejections – 35 U.S.C. 102

Claims 1-14 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,156,454 to White. White is cited for a light fixture foundation including a hollow shaft

12, cableway openings 14 supporting electrical wiring 40, and a support member 22 for supporting a lighting assembly coupled to the shaft and having a passageway 26 in communication with the shaft.

Anticipation requires that every limitation of a claim must identically appear in a prior art reference. See *Gechter v. Davidson*, 43 U.S.P.Q.2d 1030, 1032 (Fed. Cir. 1997). Absence from the prior art reference of any claimed element negates anticipation. See *Rowe v. Dror*, U.S.P.Q.2d 1550, 1553 (Fed. Cir. 1997).

Cableway openings 14 of White do not have laterally spaced and non-coaxial axes, as recited in both independent claims 1 and 10. These features are absent from White. Therefore, White cannot anticipate claims 1 and 10. Instead, the cableway openings 14 of White are concentrically disposed on shaft 12 at 0°, 90°, 180° and 270°, respectively, as seen in Figs. 1 and 2. The axes defined by openings 14 are perpendicular to the longitudinal axis of shaft 12, as recited in claims 1 and 10, however, no two axes are laterally spaced and non-coaxial with respect to one another. For example, openings 14 disposed at 0° and 90°, respectively, do not define laterally spaced axes since their respective axes are perpendicular to one another and thus cross one another, as seen in Fig. 2 of White. Also, openings 14 disposed at 0° and 270°, respectively, are coaxially aligned and positioned directly opposite one another, as seen in Fig. 2 of White. Thus, the axes defined by openings 14 disposed at 0° and 270°, respectively, are coaxial and not spaced from one another instead of non-coaxial and laterally spaced from one another, as recited in claims 1 and 10.

In view of the above, White cannot anticipate claims 1-14 since laterally spaced and non-coaxial cableway openings do not identically appear in White. Therefore, the rejection under 35 U.S.C. 102(b) should be withdrawn and the claims allowed.

Dependent claims 2-9 and 11-15 are also allowable for the same reasons. Moreover, these claims recite additional features distinguishable from the prior art. For example, claim 2

recites that first and second cableways are received in the first and second openings, claims 4 and 14 recite that the cableways are co-planar, and claims 5 and 14 recite that the cableways are at the same vertical level with respect to the shaft. Also, claim 8 recites that the support member is a base plate having a width larger than the shaft diameter and includes first and second notches for indicating the location of the cableways. Claims 9 and 15 recite an anchor for supporting the shaft and support member. Claim 11 recites that the light support includes a passageway in communication with the passageway of the support member.

New claim 21, which depends from independent claim 1, also recites that the first and second axes of the cableway openings are substantially parallel. In contrast, no two axes of respective openings 14 of White are both substantially parallel and non-coaxial.

#### Claim Rejections – 35 U.S.C. 103

Claims 1-20 stand rejected under 35 U.S.C. 103 as being unpatentable over Hubbell Power System, Inc in view of White. As best understood, Hubbell Power System, Inc. cited in the Office Action refers to the Hubbell Power Systems, Inc. Bulletin 2-9705 submitted in Applicants March 22, 2002 Information Disclosure Statement. Hubbell Power Systems is cited for teaching the claimed invention, except for cableway openings that are substantially perpendicular to the longitudinal axis of the hollow shaft with the openings being at the same level and laterally spaced from each other. White is cited for teaching a lighting fixture foundation including cableway openings 14 extending substantially perpendicular to the hollow shaft and laterally spaced from each other to prevent the cableways from interfering with one another. The Office Action suggests that it would have been obvious to modify the Hubbell Power Systems foundation in view of the teachings of White so that the openings receive wiring without the wires interfering with each other.

A *prima facie* case of obviousness has not been established because (1) the proposed combination of the Hubbell Power Systems bulletin and White fails to teach or suggest all of the limitations of the claimed invention and (2) there is no motivation to combine the references. See MPEP 2143.

The Office Action concedes that the Hubbell Power Systems bulletin fails to teach cableway openings of a light fixture foundation that define respective axes that are laterally spaced or offset, as recited in independent claims 1, 10, 16 and 19. White does not cure the deficiencies of the Hubbell Power Systems bulletin. As discussed above with respect to independent claims 1 and 10, White fails to teach cableway openings that are laterally spaced from one another. Therefore, any combination of the Hubbell Power Systems bulletin and White would not disclose or suggest all of the features of the claimed invention.

Additionally, independent claims 16 and 19 each recite the step of inserting cableways into respective openings in the foundation shaft, so that the cableways do not interfere with one another. In contrast, if the Hubbell Power Systems bulletin foundation was modified to include the openings 14 of White, cableways inserted into those openings 14 would necessarily interfere with one another because openings 14 of White are concentric about shaft 12 and either aligned with or perpendicular to one another.

Moreover, there is no motivation to combine the Hubbell Power Systems bulletin and White. The only suggested motivation is to prevent wires from interfering with one another. However, this suggestion is found only in Applicant's disclosure. Nothing in either the Hubbell Power Systems bulletin or White suggests preventing the interference of wiring or cabling. Any suggested motivation for making the proposed combination must be found in the prior art, not in Applicant's disclosure. See *In re Vaeck*, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

In view of the above, a *prima facie* case of obviousness has not been established since neither the Hubbell Power Systems bulletin, White nor any combination thereof teaches or

suggests all of the limitations of independent claims 1, 10, 16 and 19. Also, there is not motivation to combine the Hubbell Power Systems bulletin and White. Therefore, the rejection under 35 U.S.C. 103 should be withdrawn and the claims allowed.

Dependent claims 2-9 and 11-15 are also allowable for the same reasons as discussed above with respect to independent claims 1 and 10. Moreover, these claims recite additional features distinguishable from the prior art. For example, claim 2 recites that first and second cableways are received in the first and second openings, claims 4 and 14 recite that the cableways are co-planar, and claims 5 and 14 recite that the cableways are at the same vertical level with respect to the shaft. Also, claim 8 recites that the support member is a base plate having a width larger than the shaft diameter and includes first and second notches for indicating the location of the cableways. Claims 9 and 15 recite an anchor for supporting the shaft and support member. Claim 11 recites that the light support includes a passageway in communication with the passageway of the support member.

New claim 21, which depends from independent claim 1, also recites that the first and second axes of the cableway openings are substantially parallel, thereby further distinguishing White as discussed above.

Dependent claims 17, 18 and 20 are also allowable for the same reasons discussed above with respect to independent claims 16 and 19. Moreover, these claims recite additional steps not found in the prior art. For example, claims 17 recites that steps of releasably attaching a light support to the support member and electrically connecting the wiring of the cableways with a lighting unit supported by the light support. Also, claim 18 recites the step of excavating the trench so that the width of the trench is smaller than a width of the support member. Claim 20 recites that step of aligning notches of the foundation indicating the relative positions of the first and second openings with the longitudinal axis of the trench prior to excavating the trench.

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In view of the foregoing, claims 1-21 are in allowable condition. Prompt and favorable action is respectfully solicited.

Respectfully submitted,

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Tara L. Hoffman

Tara L. Hoffman

Reg. No. 46,510

Roylance, Abrams, Berdo & Goodman, L.L.P.  
1300 19th Street, N.W.  
Suite 600  
Washington, D.C. 20036  
(202) 659-9076